UNITED NATIONS

General Assembly

FIFTY-FIRST SESSION

Official Records

SIXTH COMMITTEE
50th meeting
held on
Friday, 29 November 1996
at 3 p.m.
New York

SUMMARY RECORD OF THE 50th MEETING

Chairman: Mr. ESCOVAR-SALOM (Venezuela)

CONTENTS

AGENDA ITEM 150: REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION (continued)

AGENDA ITEM 147: ESTABLISHMENT OF AN INTERNATIONAL CRIMINAL COURT (continued)

AGENDA ITEM 151: MEASURES TO ELIMINATE INTERNATIONAL TERRORISM (continued)

COMPLETION OF THE COMMITTEE'S WORK

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Distr. GENERAL
A/C.6/51/SR.50
22 August 1997
ENGLISH
ORIGINAL: FRENCH

96-82406 (E)

The meeting was called to order at 3.20 p.m.

AGENDA ITEM 150: REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION (continued) (A/C.6/51/L.20 and A/C.6/51/L.21)

Draft resolution A/C.6/51/L.20 entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization"

1. Mr. MUBARAK (Egypt), introducing the draft resolution, said that Brazil, Ecuador, Egypt, Finland, Kenya, New Zealand, Nigeria, Philippines, Portugal, Tunisia, the United Republic of Tanzania, Venezuela and Zambia had joined the sponsors of the text. The main thrust of the draft resolution was the same as the resolution which had been adopted the previous year on the same subject. The provisions of a resolution which the Special Committee had adopted in the light of the debates that had taken place in the Sixth Committee had been added to the text, which also set out the Special Committee's mandate for its 1997 session. With regard to paragraph 3 (b), which concerned the question of the implementation of the provisions of the Charter related to assistance to third States affected by the application of sanctions under Chapter VII of the Charter, he recalled that a resolution on that subject which had been proposed by Mexico had been adopted at the forty-ninth session. He therefore proposed that the Committee should adopt draft resolution A/C.6/51/L.20 without a vote.

2. Ms. WILLSON (United States of America) said that, while it supported the text of the draft resolution under consideration as well as the efforts made by all delegations to reach a consensus, her delegation could not accept measures whose implementation would cause the budgetary ceiling imposed by the General Assembly for the current biennium to be exceeded. It could join in the consensus if confirmation could be provided that the draft resolution would be implemented from within existing resources, in accordance with the assurances that had been given. Indeed, it had been the understanding of the United States that conference services could be provided for inter-sessional meetings without any additional cost. Given the change in the situation since then, her delegation could not participate in the adoption of the draft resolution. It nevertheless hoped to be able to join in the consensus after the Fifth Committee had determined the programme budget implications of the draft resolution under consideration.

3. Mr. KULYK (Ukraine) said that it had been agreed that the words "in particular" in paragraph 3 (b) of the draft resolution should be replaced by the word "also".

4. The CHAIRMAN assured the representative of Ukraine that his observation would be taken into account. He took it that the Committee wished to adopt draft resolution A/C.6/51/L.20, entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization", without a vote.

5. Draft resolution A/C.6/51/L.20 was adopted by consensus.

AGENDA ITEM 147: ESTABLISHMENT OF AN INTERNATIONAL CRIMINAL COURT (continued) (A/C.6/51/L.10, A/C.6/51/L.22)

Draft resolution A/C.6/51/L.10 entitled "Establishment of an international criminal court"

6. The CHAIRMAN recalled that the draft resolution in question had been previously submitted by the delegation of the Netherlands. He also pointed out that the footnote to paragraph 4 of the draft text was no longer necessary and that document A/C.6/51/L.22 contained the programme budget implications of the draft resolution.

7. Ms. WILLSON (United States of America) said that, while the United States fully endorsed the text of the draft resolution under consideration, unfortunately, it could not join in its adoption. The strictest budgetary discipline must be respected, which meant that expenditures must remain within the limit of the $2,608 billion which had been allocated for the current biennium. In the view of her delegation, it should be possible to convene meetings of the Preparatory Committee on the Establishment of an International Criminal Court, the dates for which had been decided upon within the limits of the resources allocated to Conference Services. Despite its steadfast championing of the cause of budgetary discipline, the United States fully supported the continuation of the work of the Preparatory Committee, which should meet for six weeks in 1997 and then in early 1998, so that a diplomatic conference could be held in mid-1988. Before the draft resolution was put to a vote in the plenary Assembly, the United States would endeavour in the Fifth Committee to obtain confirmation of the information that had been given initially, namely, that the meetings in question could be held at no additional cost. Her delegation hoped that it would then be able to join in the consensus on the draft resolution.

8. The CHAIRMAN said that he took it that the Committee wished to adopt draft resolution A/C.6/51/L.10 entitled "Establishment of an International Criminal Court", without a vote.

9. Draft resolution A/C.6/51/L.10 was adopted by consensus.

10. Mr. ZHANG Kening (China) said that the necessary steps should be taken immediately to encourage the participation of all countries in the preparatory work on the establishment of an international criminal court in 1997. He noted that, even though it had already expressed its own deep concern as well as the concerns of other delegations over the provisions contained in paragraph 4 of the draft resolution, the Chinese delegation, in a spirit of cooperation and compromise, had decided to join in the consensus on the text. It nevertheless hoped that in future, when decisions concerning such meetings were being made, account would be taken of the points of view of all delegations. He requested that his statement be reflected in the summary record.

11. The CHAIRMAN said that the Committee had thus concluded its consideration of agenda item 147.

AGENDA ITEM 151: MEASURES TO ELIMINATE INTERNATIONAL TERRORISM (continued) (A/C.6/51/L.15/Rev.1, A/C.6/51/L.23)

12. Mrs. FERNÁNDEZ de GURMENDI (Argentina), introducing the draft resolution, said that it was the outcome of lengthy consultations, in which many delegations had taken part in a constructive, flexible spirit. Since the text reconciled the different views expressed, she trusted that it would be adopted without a vote.

13. Ms. WILLSON (United States of America), noting that the fight against terrorism was her country's top priority and that her delegation had taken an active part in the informal consultations on the draft resolution, welcomed the efforts made by all delegations to arrive at a consensus on the issue.

14. Her delegation could not, however, subscribe to any decision that might cause the budget ceiling approved for the current biennium to be exceeded. It would join in the consensus if it received confirmation of the earlier assurance that the measures envisaged in the draft resolution could be implemented within existing resources. It had been her delegation's understanding that conference services could be made available for inter-sessional meetings at no extra cost, provided that the relevant dates were indicated. Unless it could be determined that the holding of the meetings in question would not entail additional expenditures, her delegation would be unable to join in the adoption of the draft resolution. It nevertheless hoped to be able to rejoin the consensus in the plenary Assembly, once the Fifth Committee had determined the programme budget implications of the draft resolution.

15. Ms. FLORES (Mexico) said that, although a strong advocate of the right of asylum and of the humanitarian protection of refugees, Mexico condemned all abuses committed by persons who benefited therefrom and would not tolerate the exploitation of those institutions, particularly for terrorist ends. It would prosecute persons who committed such abuses, in accordance with applicable legislation. Her delegation nevertheless felt that refugees and beneficiaries of the right of asylum should not be systematically equated with terrorists.

16. Ms. CUETO MILIÁN (Cuba), echoing the hope that the draft resolution would be adopted without a vote, said that present and future negotiations on the elimination of international terrorism did not necessarily have to result in a text that was as general in scope as the Declaration on Measures to Eliminate International Terrorism, adopted by the General Assembly in 1994. As a legal organ with considerable technical expertise, the Sixth Committee must, of course, approach the definition of international terrorism in all its forms from a global standpoint but also, and above all, from a technical standpoint and avoid using ambiguous terms such as "standards" or general concepts. Instead, it must try to use precise technical language for all subjects, that encouraged the observance and application of international legal instruments.

17. Mr. ZHANG (China) said that, while it had always condemned all forms of international terrorism, China was nevertheless opposed to any attempt to interfere in the sovereignty and integrity of States under cover of the fight against terrorism. There were already a number of specific conventions against terrorist attacks and activities, and all States should take effective measures

to fulfil their obligations under those conventions and increase international cooperation in that area. The absence of a uniform definition of international terrorism could undermine cooperation in combating it, and a definition that was acceptable to all States must therefore be arrived at if an international convention for the suppression of terrorist acts was to be drafted.

18. While it was in favour of the establishment of an Ad Hoc Committee to study questions related to the drafting of a convention, China could not, in the absence of a pre-existing legal framework and specific guidelines for such a convention, subscribe to the idea of immediately authorizing that Committee to draft an international convention for the suppression of terrorist attacks or any other convention along the same lines. It therefore proposed that the Ad Hoc Committee should be asked to deliberate on the definition and manifestations of terrorism, to envisage measures for strengthening international cooperation in the fight against terrorism and to study the question of whether a new convention was needed and what its content should be.

19. Lastly, his delegation had shown considerable flexibility and had agreed to the text of the draft resolution in a spirit of compromise. It reserved the right to comment on the draft at a later date.

20. Mr. RAMEEZ (Malaysia) said that, while his delegation joined in the consensus on the draft resolution, it would like the concept of international standards of human rights invoked in the draft resolution and in the attached declaration to be defined more clearly.

21. Mrs. EKEMEZIE (Nigeria) said that, while it had supported the consensus adoption of the draft resolution in a spirit of compromise, her delegation continued to believe that the expression "international standards of human rights" was open to subjective interpretations that might threaten the very essence of the concept of human rights and undermine the security of States. It would be better to invoke the international human rights instruments with whose provisions everyone was familiar.

22. Mr. WENAWESER (Liechtenstein) said that his delegation reserved the right to explain its position when the draft resolution was adopted by the plenary Assembly.

23. Mr. MOHAMED (Sudan) said that, while his delegation joined in the consensus on the draft resolution, it reaffirmed the need to implement existing instruments on the fight against terrorism and to abandon political considerations that were a thinly veiled attempt to impose on certain States choices of culture or civilization that were alien to them.

24. Mr. HAMDAN (Lebanon) reserved the right to comment on the draft resolution when it was considered in the plenary Assembly.

25. Mr. AL-HABIB (Islamic Republic of Iran), echoing earlier reservations about the expression "international standards of human rights", said that no such

international standards existed. In his view, it would be preferable to invoke universally recognized human rights instruments.

26. Draft resolution A/C.6/51/L.15/Rev.1 was adopted by consensus.

27. Mr. LARSEN (Norway) said that, while supporting the adoption of the draft resolution, his delegation did not agree either with the unlimited mandate which would be assigned under paragraph 9 to the Ad Hoc Committee to be established, or with the idea of a comprehensive convention against terrorism, the drafting of which would, in his view, be a very difficult undertaking. His delegation advocated instead promoting wider accession to existing international instruments on the subject. Hence his delegation's reservations concerning paragraph 10 of the draft resolution. From the standpoint of international law only States could violate human rights. In addition, even individuals accused of criminal acts were entitled to the minimum guarantees afforded by international standards of human rights. In any event, the effort to combat terrorism could not justify the failure to respect human rights.

28. Mr. RÖNQUIST (Sweden) said that, while his delegation supported the adoption of the draft resolution, it nevertheless had some difficulties with it. The Swedish constitution guaranteed the freedom of association and, consequently, Sweden could not ban one or another type of association or organization. Only offences which were planned or perpetrated by individuals or groups could be prosecuted in Sweden. Furthermore, it was highly doubtful that it would be possible to prevent or counteract the financing of terrorists and terrorist organizations and prevent movements of funds, as envisaged in paragraph 3 (f) of the draft resolution. His delegation shared the reservations of the Norwegian delegation with respect to paragraphs 9 and 10 of the draft resolution. Lastly, his delegation was not convinced of the correctness of the interpretation of the Charter of the United Nations reflected in paragraph 2 of the Declaration annexed to the draft resolution.

29. Ms. WONG (New Zealand) said that her delegation was in favour of the draft resolution on international terrorism, especially as it did not call into question the obligation imposed on States parties to the 1951 Convention and the 1967 Protocol relating to the Status of Refugees to respect, inter alia, the principle of non-refoulement and the classic definition of refugee status. The Declaration annexed to the draft resolution provided, in its seventh preambular paragraph, that the Declaration did not affect the protection afforded under the terms of the Convention and Protocol and other provisions of international law. In addition, in spite of the legitimate doubts concerning the correctness of certain aspects of the political interpretation of the Charter of the United Nations in paragraph 2 of the Declaration, her delegation considered that the Declaration did not reinterpret the 1951 Convention. Moreover, her delegation welcomed the fact that the United Nations High Commissioner for Refugees had, in particular, confirmed that the provisions of article 1 (f) of that Convention would continue to be interpreted in a restrictive manner where international security, war crimes and crimes against humanity, in particular, were concerned. Lastly, her delegation wished its remarks to be reflected in the official record.

30. Mr. AKBAR (Pakistan) said that there was a need for a legal definition of terrorism. He therefore endorsed the comments made by the delegation of China and expressed the hope that the Sixth Committee would seek to produce a definition by investigating the profound causes of that phenomenon, while ensuring respect for the right of liberation movements to struggle for the self-determination of their peoples.

31. Mr. NGUYEN DUY CHIEN (Viet Nam), said that, while joining in the consensus on the draft resolution, his delegation believed that paragraph 3 would be improved if it called for the adoption of new measures in accordance with the relevant provisions of domestic and international law, since the expression "international law" by itself referred to the instruments, rules, principles and norms of international law and, consequently, made superfluous any express reference to individual instruments.

32. Mr. DIAZ PANIAGUA (Costa Rica) said that, while joining in the consensus on the draft resolution, his delegation held that efforts to combat terrorism must not in any way undermine the protection of human rights and the right of refugees and asylum-seekers. In his delegation's view, the draft resolution did not affect the 1951 Convention and 1967 Protocol relating to the Status of Refugees, or customary law, in particular, the principles of non-refoulement or the regime of diplomatic asylum, which had the standing of customary law in Latin America. Lastly, his delegation shared the view of the United Nations High Commissioner for Refugees that the exclusion clauses in articles 1 and 33 of the 1951 Convention should be interpreted in a restrictive manner and that it was for host countries to punish refugees who engaged in terrorist acts.

33. Mr. AYALOM (Israel) said that the Committee must resist the temptation to confer a kind of legitimacy on terrorist acts by linking them to liberation movements in the name of the struggle for self-determination. It would, in his view, be a serious injustice to such movements to confuse their struggle with criminal acts perpetrated against innocent civilians.

34. Mr. MATRI (Libyan Arab Jamahiriya) said that, while endorsing the draft resolution, he felt it would be improved if it contained a clearer definition of terrorism. Indeed, to term certain acts "terrorist" without defining the criteria used served the selfish aims of certain States. In addition, a distinction should be made between the struggle for self-determination waged by peoples under occupation in accordance with international law, on the one hand, and terrorism proper, on the other.

35. Mr. OBEID (Syrian Arab Republic) said that his delegation reserved its right to comment on the draft resolution in the plenary Assembly.

36. The CHAIRMAN announced that the Committee had completed its consideration of agenda item 151.

37. He reminded the Committee that draft resolution A/C.6/51/L.16 concerning the Convention on the Law of the Non-Navigational Uses of International Watercourses would be considered by the Fifth Committee.

38. Ms. WONG (New Zealand) asked whether the statement made by the United States delegation concerning draft resolutions A/C.6/51/L.10, L.20 and L.15/Rev.1 also applied to draft resolution A/C.6/51/L.16.

39. Ms. WILLSON (United States of America) said that, without wishing to dissociate itself from the consensus on the draft resolution on the Convention on the Law of the Non-Navigational Uses of International Watercourses, her delegation was not prepared to endorse a decision whose financial implications would undermine the financial discipline that had been imposed by the United Nations General Assembly. It would support the draft resolution if assurances were received from the Fifth Committee that it could be implemented within the resources available to the Organization for the current biennium.

40. Ms. FLORES (Mexico) said it was her understanding that the discussion of the draft resolution was closed, as the Sixth Committee had already taken a decision on it.

COMPLETION OF THE COMMITTEE'S WORK

41. After an exchange of courtesies, in which Mr. SIDI ABED (Algeria), Mr. VANDEVELDE (Belgium), Ms. PEÑA (Peru), Mr. ANCELESKI (The former Yugoslav Republic of Macedonia) and Mr. HAMDAN (Libyan Arab Jamahiriya) spoke on behalf of the regional groups of States, the CHAIRMAN, having thanked the members of the Secretariat, including the précis-writers and interpreters, declared that the Sixth Committee had completed its work for the fifty-first session.

The meeting rose at 5.50 p.m.

UNITED NATIONS

General Assembly

FIFTY-FIRST SESSION

Official Records

SIXTH COMMITTEE
51st meeting
held on
Monday, 24 March 1997
at 10 a.m.
New York

SUMMARY RECORD OF THE 51st MEETING

Chairman: Mr. YAMADA (Japan)

(Chairman of the Working Group of the Whole on the Elaboration of a Framework Convention on the Law of the Non-Navigational Uses of International Watercourses)

CONTENTS

AGENDA ITEM 144: CONVENTION ON THE LAW OF THE NON-NAVIGATIONAL USES OF INTERNATIONAL WATERCOURSES (continued)

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A/C.6/51/SR.51
12 May 1997

ORIGINAL: ENGLISH

97-80870 (E)

Mr. Yamada (Chairman of the Working Group of the Whole on the Elaboration of a Framework Convention on the Law of the Non-Navigational Uses of International Watercourses) took the Chair.

The meeting was called to order at 10.30 a.m.

AGENDA ITEM 144: CONVENTION ON THE LAW OF THE NON-NAVIGATIONAL USES OF INTERNATIONAL WATERCOURSES (continued)

Organization of work

1. The CHAIRMAN said that, at its second session, the Working Group of the Whole on the Elaboration of a Framework Convention on the Law of the Non-Navigational Uses of International Watercourses would build on the work done by the Drafting Committee and the Working Group at the previous session. He would take it that the Working Group wished to retain the same officers. In accordance with General Assembly resolution 51/206, paragraph 4, the Expert Consultant would continue to assist the Working Group.

2. The Working Group must make efficient use of the time available, since it must complete its work, adopt the convention and report directly to the General Assembly by 4 April 1997.

3. At its previous session the Working Group had discussed all the articles prepared by the International Law Commission and had referred them to the Drafting Committee. The Drafting Committee had completed its consideration of all articles, with the exception of article 3, paragraph 3, article 7, article 33, the preamble and the final clauses. Since the Drafting Committee needed to complete its work on the remaining issues no later than 27 March 1997, he suggested that it should begin its work immediately, with a view to reporting to the Working Group on that date.

4. There would be a need for informal consultations, presided over by coordinators, to tackle any difficult issues. In that connection he noted that the report of the Drafting Committee (A/C.6/51/NUW/WG/L.1/Rev.1) contained a number of elements in square brackets as well as footnotes. Informal consultations should begin as soon as possible with a view to obtaining a clearer, clean text. He drew the Working Group's attention to an informal paper prepared by the Chairman which summarized the progress made during the first session and outlined what remained to be done.

The meeting rose at 10.40 a.m.

UNITED NATIONS

General Assembly

FIFTY-FIRST SESSION

Official Records

SIXTH COMMITTEE
52nd meeting
held on
Thursday, 27 March 1997
at 3 p.m.
New York

SUMMARY RECORD OF THE 52nd MEETING

Chairman: Mr. YAMADA (Japan)

(Chairman of the Working Group of the Whole on the Elaboration of a Framework Convention on the Law of the Non-Navigational Uses of International Watercourses)

CONTENTS

AGENDA ITEM 144: CONVENTION ON THE LAW OF THE NON-NAVIGATIONAL USES OF INTERNATIONAL WATERCOURSES (continued)

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A/C.6/51/SR.52
20 August 1997
ENGLISH
ORIGINAL: FRENCH

97-80948 (E)

Mr. Yamada (Chairman of the Working Group of the Whole on the Elaboration of a Framework Convention on the Law of the Non-Navigational Uses of International Watercourses) took the Chair.

The meeting was called to order at 3.25 p.m.

AGENDA ITEM 144: CONVENTION ON THE LAW OF THE NON-NAVIGATIONAL USES OF INTERNATIONAL WATERCOURSES (continued) (A/C.6/51/NUW/WG/L.1/Rev.1)

1. Mr. LAMMERS (Chairman of the Drafting Committee), introducing the report of the Drafting Committee (A/C.6/51/NUW/WG/L.1/Rev.1), recalled that the Committee had been requested to take up certain paragraphs of article 3, article 7, article 33, the preamble and the final clauses. Consultations had taken place on article 3, and had been coordinated by the representative of Italy, who had reported to the Drafting Committee. A discussion had taken place, and the Drafting Committee had decided to retain the words "apply and adjust" in article 3, paragraph 3, and the words "adjustment or application" in paragraph 5 of the same article; a declaration would accompany the provision, which could be worded as follows: "As far as article 3, paragraph 3 is concerned, it is understood that the present convention will serve as a guideline for future watercourse agreements and that once such agreements are concluded, they will not alter the rights and obligations provided therein unless such agreements provide otherwise".

2. With regard to article 7, the representative of Canada, as the coordinator of the consultations, had asked the Drafting Committee for a little more time to try to reach consensus. The Drafting Committee had acceded to his request.

3. With regard to article 33, on the settlement of disputes, a discussion had taken place on a proposal which had been made by the Chairman of the Drafting Committee after lengthy consultations. The discussion had not been conclusive: amendments had been submitted, reservations had been expressed and delegations had asked for the Chairman's proposal to be submitted in writing. That had been done, and the proposal, in document A/C.6/51/NUW/WG/CRP.83, would be the basis for further consultations.

4. As to the preamble, for the most part the members of the Drafting Committee had been in agreement with its provisions, although some brackets remained and there were several footnotes indicating reservations made by certain delegations.

5. With regard to the final clauses, which had been drawn up on the basis of the text submitted by the Secretariat as amended on the initiative of the representative of Ireland on behalf of the European Union so as to enable the latter to become a party to the convention, they had been approved by the Drafting Committee, and the only pending question was the number of ratifications needed for the entry into force of the convention. The Chairman of the Drafting Committee would make a more detailed report to the Working Group at a later stage.

6. The CHAIRMAN said that the Working Group of the Whole must now consider the articles one by one and adopt them ad referendum, preferably by general agreement. He appealed to delegations which were not fully satisfied to show flexibility so as to facilitate the task of the Working Group; they would still be able to have their positions reflected in the summary record. He recalled that at the first session of the Working Group, all the texts of the draft prepared by the International Law Commission had been considered and the views of States had been reflected in the summary records. Once all the articles had been adopted, the Working Group would adopt the draft convention as a whole, in accordance with the modalities envisaged in paragraph 4 of the annex to General Assembly resolution 51/206. He invited members of the Working Group to consider the report of the Drafting Committee article by article (A/C.6/51/NUW/WG/L.1/Rev.1).

Article 1

7. Mr. SABEL (Israel) said that the words "and of their waters" in article 1, paragraph 1 were superfluous since the term "watercourse" was defined as "a system of surface waters and groundwaters" in article 2, paragraph (a).

8. Mr. ROSENSTOCK (Expert Consultant) said that the inclusion of the words "and of their waters" was explained in the commentary to article 1. Although he understood the position of the Israeli delegation, he did not see what would be gained by deleting the words in question.

9. Mr. SABEL (Israel) said that he would not insist on the deletion.

10. Mr. RAO (India) said that he was surprised that the concept of "conservation", which had appeared in the International Law Commission text, had been abandoned. He was aware that the words "measures of protection, preservation and management" had been substituted for the words "measures of conservation and management" to bring the wording of article 1, paragraph 1, in line with the heading of part IV of the draft, but felt that the concept of conservation was important and that the word should be added to the text.

11. Mr. LAMMERS (Chairman of the Drafting Committee) said that the question had been considered by the Drafting Committee, which had felt that the concepts of protection, preservation and management covered the concept of conservation.

12. The CHAIRMAN said that the comment made by the representative of India would be duly recorded.

13. Mr. SVIRIDOV (Russian Federation) said that he was surprised that article 1, paragraph 3, which had been placed in brackets, had simply been deleted.

14. The CHAIRMAN said that the deletion had been explained by the Chairman of the Drafting Committee in the report he had made to the Working Group on 25 October 1996 (A/C.6/51/SR.24). The paragraph in question resulted from a proposal by the United States delegation which that delegation had withdrawn.

15. Mr. SVIRIDOV (Russian Federation), referring to paragraph 5 of the summary record mentioned by the Chairman, said that it was not stated anywhere that the United States of America had withdrawn its proposal. The paragraph was not clear in that respect, and he felt that the matter had not been settled. As to substance, it would be desirable to maintain the paragraph in question.

16. Mr. HARRIS (United States of America) said that the question had been considered in the Drafting Committee and his delegation had withdrawn its proposal, but had not done so officially. The expression "many delegations" appearing in the paragraph mentioned by the representative of the Russian Federation was perhaps infelicitous, because there had been general agreement.

17. The CHAIRMAN said that the concern expressed by the Russian Federation could be met by formulating a declaration on living resources, possibly in the report of the Working Group to the General Assembly.

18. Ms. GAO Yanping (China) said that her delegation did not have a firm position in that respect, but felt that if the Working Group attached a declaration to article 1, it would be embarking on a dangerous course. There was a risk of ending up with a convention accompanied by a whole series of declarations. That was particularly regrettable in respect of article 1, on which there were no disagreements as to substance. However, in the absence of any other solution, China would not oppose the adoption of a declaration.

19. Mr. SVIRIDOV (Russian Federation) said that he would prefer to maintain paragraph 3 in the initial draft of the Drafting Group, but would not oppose the Chairman's proposal.

20. The CHAIRMAN said that he took it that the Working Group did not wish to restore paragraph 3 to article 1, on the understanding that consultations would take place on the form of a declaration concerning living resources.

21. It was so decided.

22. Ms. GAO Yanping (China) said that she wished to place on record her delegation's reservations on the practice of making declarations.

23. Mr. AMER (Egypt) said that in article 1, paragraph 1, the word "Convention" should be replaced by "Framework Convention". He felt that it would be appropriate to indicate the nature of the convention at the outset.

24. Mr. AMARE (Ethiopia) said that he would prefer to retain the solution adopted by the International Law Commission.

25. Mr. LAMMERS (Chairman of the Drafting Committee) said that the Drafting Committee had had a lengthy discussion on the nature of the convention but had not felt it useful to insert the word "framework" in article 1, particularly since that word was already used in the preamble.

26. Mr. SABEL (Israel), supported by Mr. SALINAS (Chile), Ms. GAO Yanping (China), Mr. PAZARCI (Turkey), Mr. RAO (India) and Mr. LAVALLE (Guatemala), said that it was useful to stress the nature of the convention in the text.

Moreover, the International Law Commission used the word repeatedly in its commentary.

27. Mr. TANZI (Italy) said that the addition of the word "framework" would have no normative or legal effect. The Vienna Convention on the Law of Treaties, moreover, did not provide for such treaties. In any case, the normative effect was determined by the content of the provisions and the addition of the word "framework" was immaterial.

28. Mr. KASME (Syrian Arab Republic) agreed with the Italian representative. He would prefer, however, not to add the word "framework" to article 1, since there was no definition of the term "framework convention".

29. Mr. CANELAS DE CASTRO (Portugal) said that the addition of the word "framework" would, of course, have no normative impact but might complicate the interpretation of the provisions of the convention. As the word was already contained in the preamble, there was no reason to add it to the text of the articles.

30. Mr. SMEJKAL (Czech Republic) noted that the General Assembly used the term "framework convention" in its resolution 51/206. There was also unanimity as to the substance. His delegation was nonetheless prepared to show flexibility and would support whatever solution was adopted by the Working Group.

31. Mr. ROSENSTOCK (Expert Consultant) said that the term could be retained in the preamble, and that with respect to the title and the text of article 1, the Working Group could resume its consideration of the question once it had adopted the draft convention as a whole.

32. The CHAIRMAN said it was his understanding that the Working Group wished to adopt the text of article 1 ad referendum, and that it would reconsider the question before the final adoption of the draft convention.

33. It was so decided.

Article 2

34. The CHAIRMAN said that draft article 2, entitled "Use of terms", reiterated the text proposed by the International Law Commission, except that the order of paragraphs (a) and (b) had been reversed, and an amended version of paragraph (c) and a new paragraph (d) had been proposed by the United States of America and the European Union.

35. Mr. DEKKER (Netherlands) said that the proposal of the United States and the European Union (A/C.6/51/NUW/WG/CRP.81) followed from the decision of the Drafting Committee concerning the final clauses, with the aim of enabling regional economic integration organizations to become parties to the convention. The new text proposed for the new paragraph (d), on which consultations had been held, was based on the definition of regional economic integration organizations contained in the Convention on Biological Diversity.

36. The CHAIRMAN suggested that the debate on article 2 should be deferred, pending the distribution of document A/C.6/51/NUW/WG/CRP.81.

37. Ms. FAHMY (Egypt) expressed a preference for specifying that the term "groundwaters", as used in paragraph (a), referred to all waters forming an integral part of the system, namely, that it also included groundwaters that flowed out of the system and did not flow into a common terminus. She noted that when the latter type of groundwater was pumped - in California, for example - the entire hydrological system was affected.

38. Mr. ROSENSTOCK (Expert Consultant) said that there was no point in being so specific, since the word "system" already referred to what formed a balanced whole, including both groundwaters and surface waters. The introduction of a distinction between various types of groundwaters might lead to the application of different criteria to different waters forming part of the hydrological system and might even exclude such watercourses as the Rio Grande, which ran partly underground, from the scope of the convention.

39. Mr. PAZARCI (Turkey) noted that his country was among those which believed that groundwaters should not be covered by the convention.

40. Mr. NEGA (Ethiopia) said that the technical nature of the Egyptian proposal would only complicate an already complex question. Ethiopia was also among those countries which felt that groundwaters should not be covered by the convention.

41. Mr. CANCHOLA (Mexico) expressed reservations concerning the Egyptian proposal. It added nothing to the current text, which was balanced and reflected the current state of hydrological knowledge.

42. Mr. HAMID (Pakistan), noting that, like Turkey and Ethiopia, his country had reserved its position with respect to the inclusion of the term "groundwaters", said that he did not see how it could be asserted that groundwaters always formed an integral part of the hydrological system, for while surface waters were easily measurable, groundwaters were not. Accordingly, different rules should be applied to those two types of waters.

43. Mr. HABIYAREMYE (Rwanda) said that his country had reserved its position with respect to the inclusion of the term "groundwaters" for the same reasons that Turkey, Ethiopia and Pakistan had put forward.

44. Mr. LAMMERS (Chairman of the Drafting Committee) said that, in view of its extremely technical nature, the Egyptian proposal should first be reviewed by the Expert Consultant.

45. Mr. PAZARCI (Turkey) said that, as the Chairman of the Drafting Committee had indicated in his report, the Committee had been unable to devote sufficient time to article 2, on which members continued to formulate reservations, particularly those countries which favoured excluding the term "groundwaters".

46. Mr. LAMMERS (Chairman of the Drafting Committee) said he recognized that article 2 had been considered at an advanced stage in the Drafting Committee's

work. Certain countries had expressed reservations, which was their right; however, on the whole, delegations had accepted the proposed wording, with minor amendments. As for the time factor, as indicated in paragraph 44 of document A/C.6/51/SR.24, article 2 was not the only provision which might have benefited from more lengthy consideration.

47. Mr. SVIRIDOV (Russian Federation) said that the Russian Federation had mistakenly been included among those States which had formulated reservations with respect to paragraph (b). As it had informed the Secretariat orally and in writing - thus far to no avail - his delegation had no reservations in that regard.

48. The CHAIRMAN assured the representative of the Russian Federation that the Secretariat would take all necessary steps to correct the error.

49. Mr. YAHAYA (Malaysia) said he did not see how the United States proposal would add anything to the existing wording of article 2, subparagraph (c), and requested clarification. However, he agreed with the proposed inclusion of a definition of the term "regional economic integration organization" in subparagraph (d).

50. Mr. KASME (Syrian Arab Republic) recalled that the Working Group had decided not to define the term "optimal utilization" even though it appeared several times in the draft articles and its interpretation could give rise to disputes, on the grounds that article 33 provided for the establishment of an organ for the settlement of any differences in interpretation which might arise. He wondered whether it might be necessary to reopen the discussion and include such a definition, since, as currently worded, article 33 no longer provided for such a mechanism.

51. Mr. JAAFAR (Lebanon) said that groundwaters were difficult to define, even when they formed a system with surface waters; they could be the subject of protracted disputes. It would therefore be helpful to revise the drafting of article 2 in order to define the relationship between groundwaters and surface waters better. He agreed with the representative of the Syrian Arab Republic that it would be useful to define the term "optimal utilization".

52. Mr. HABIYAREMYE (Rwanda) said that his country was incorrectly listed among those States having reserved their position on subparagraph (b).

53. The CHAIRMAN suggested that the discussion of article 2 should be deferred.

54. It was so decided.

Article 3

55. Ms. FAHMY (Egypt) requested that informal consultations should be held in order to reach a consensus, given the reservations of several delegations, including her own, regarding that article.

56. The CHAIRMAN suggested that the Working Group should hold further informal consultations on article 3 and, if necessary, appoint a coordinator.

57. It was so decided.

Article 4

58. The CHAIRMAN said that there appeared to be a consensus regarding the first paragraph. However, reservations had been expressed concerning the second paragraph.

59. Mr. SVIRIDOV (Russian Federation) proposed that, in the first line of paragraph 2, the words "whose use" should be replaced by "whose interests in the uses".

60. The CHAIRMAN said that the amendment proposed by the Russian Federation would be circulated at the next meeting in a document on articles 4 and 5 (A/C.6/51/NUW/WG/CRP.8). It would be preferable to await its distribution before adopting article 4, paragraph 2.

61. Mr. SALINAS (Chile) said that he would prefer to retain the text as it stood. The word "interests" gave the text a highly subjective character that was not desirable.

62. The CHAIRMAN suggested that the Working Group should adopt article 4, paragraph 1, ad referendum and return to paragraph 2 at a later date.

63. It was so decided.

Articles 5, 6, 7 and 8

64. The CHAIRMAN said that consultations were under way on articles 5, 6 and 7; it would therefore be preferable to postpone their adoption. As for article 8, the Chairman of the Drafting Committee had indicated in his report that the final text would depend on the decisions taken on article 5, paragraph 1, and article 6. Thus, it would not be possible to take an immediate decision on that article.

65. Mr. WELBERTS (Germany) introduced a proposal concerning article 8, paragraph 2, sponsored by Argentina, Austria, Egypt, Germany, Greece, Hungary, Italy, Malaysia, Mali, Portugal, Romania, Switzerland, the Syrian Arab Republic, the United States of America, Venezuela and Viet Nam. Those countries believed that the valuable experience in cooperation acquired in mixed commissions should be reflected in the framework convention. Article 8, paragraph 2, could mention the possibility of taking into account the experience gained through agreements and arrangements currently in force in different regions, in particular the establishment of mechanisms or mixed commissions, with the consent of the parties concerned. It might also give examples of substantive issues lending themselves to such cooperation.

66. The sponsors of the proposal had no intention of burdening States parties with new obligations; it would be up to the States parties to establish such mechanisms. Nor was the proposal intended to establish norms; on the contrary, the proposal recognized that conditions of cooperation and relevant needs could vary from one watercourse to another. It simply mentioned one mechanism which

functioned successfully in various parts of the world. For that reason, States representing different interests situated upstream, in the middle or downstream along a watercourse had associated themselves with it.

67. The CHAIRMAN invited the representative of Germany to consult with delegations regarding the proposal before the Working Group took up article 8 the following week.

Article 9

68. The CHAIRMAN said he took it that the Working Group wished to adopt article 9 ad referendum.

69. It was so decided.

Article 10

70. The CHAIRMAN said that there appeared to be consensus on article 10, paragraph 1.

71. Ms. FAHMY (Egypt) said that her delegation had reservations on that paragraph, which stated that no use enjoyed priority. For arid and semi-arid countries, irrigation was often an absolute priority, something that must be taken into account in defining equitable utilization. Her delegation wished to have some time to submit a proposal and therefore requested that consideration of article 10 should be postponed.

72. Mr. NEGA (Ethiopia) said that article 6 drew no distinction between the various current and potential uses. Making such equal treatment subject to the absence of custom to the contrary in article 10 made the article vague. He therefore proposed that the phrase "or custom" in paragraph 1 should be deleted.

73. The CHAIRMAN, turning to article 10, paragraph 2, said he understood that the work of the Group should reflect the content of footnote 16.

74. Mr. LAMMERS (Netherlands) (Chairman of the Drafting Committee) said that, after lengthy consultations, the Drafting Committee had decided to make explicit the concept of "vital human needs" used in paragraph 2 by including the International Law Commission commentary in a footnote. Three delegations had reserved their positions on the question of "vital human needs".

75. Mr. SABEL (Israel) said that his delegation was one of the three and believed that absolute priority should be given to drinking water, without which life would not be possible in certain parts of the world.

76. Mr. CANELAS de CASTRO (Portugal) said that his delegation had also reserved its position on the issue of "vital human needs" and shared the views expressed by the representative of Israel.

77. Mr. SVIRIDOV (Russian Federation) recalled that his delegation had put forward a proposal on the issue, contained in document A/C.6/51/NUW/WG/CRP.34, which sought to give priority to drinking water in paragraph 2.

78. Mr. RAO (India), supported by Mr. MORSHED (Bangladesh), said that, without minimizing the importance of drinking water, it should be given the same priority as water required for the production of food in order to prevent starvation, as suggested in paragraph (3) of the International Law Commission's commentary to article 10.

79. Mr. HARRIS (United States of America) recalled that, at its previous session, the Working Group had debated at length the issue of whether priority should be explicitly given to drinking water. It had concluded that the situation varied from one watercourse to another and that to systematically give absolute priority to drinking water did not reflect the real situation with all watercourses. For example, it could happen that a hydraulic dam was the most important use of a watercourse. In that respect, the Commission's commentary was very balanced, in that it reflected the vital importance of drinking water in certain places without prejudging the situation in other instances.

80. Mr. ROSENSTOCK (Expert Consultant) recalled that paragraph 2 of the article had been accepted without any problem and that no delegation had expressed reservations concerning footnote 16. As clearly stated in paragraph (4) of the Commission's commentary, which was reproduced in that footnote, the expression "vital human needs" referred both to drinking water and to water required for the production of food.

81. Ms. GAO Yanping (China) said that, since footnote 16 would not appear in the convention, a definition of the expression "vital human needs" should be given in order to make the article more clear; some delegations had already proposed that at the last meeting of the Working Group in October 1996.

82. The CHAIRMAN recalled that delegations wishing to express reservations on the article could have their position reflected in the summary record; however, in accordance with the request made by the representative of Egypt, he suggested that any decision on the article should be postponed.

83. Ms. FAHMY (Egypt) said that her delegation withdrew its reservations.

84. Mr. SABEL (Israel) said that he had a problem with the expression "vital human needs" in paragraph 2, and wondered whether it would not be possible to replace it with "vital domestic needs for human and livestock consumption", in accordance with the proposal contained in document A/C.6/NUW/WG/CRP.19.

85. Mr. LAMMERS (Netherlands), Chairman of the Drafting Committee, recalled that at the Committee's last session, in 1996, that expression had been the subject of much argument and a number of conference room papers. At the end of the session, the representative of South Africa, whom the Committee had entrusted with solving problems related to it, had submitted a report which the Committee had quoted in its own report, stating that it had been decided to retain the text of the article in its current form as well as footnote 16, and that three delegations had reserved their positions on the article and the footnote.

86. Mr. NUSSBAUM (Canada) wondered whether the wording of the article could not be improved by beginning paragraph 2 with the words "notwithstanding paragraph 1". That would make the link between the two paragraphs clearer.

87. Mr. KASSEME (Syrian Arab Republic) asked whether the footnotes would be included in the convention.

88. The CHAIRMAN replied that they would not, but that their contents would be reproduced in a different form.

89. Mr. NEGA (Ethiopia) recalled that he had proposed to delete the word "custom" from paragraph 1 of the article, considering that it undermined the balance achieved in article 6; he asked the Working Group to postpone any decision on that paragraph.

90. The CHAIRMAN said that article 10, paragraph 1, had been adopted unanimously by the Drafting Committee at its previous session, and that the Ethiopian proposal called that decision into question. As it seemed that that proposal had not been accepted by most delegations, he asked the representative of Ethiopia whether he could adopt article 10 ad referendum, on the understanding that his position would be duly reflected in the summary record.

91. Mr. AMARE (Ethiopia) agreed to the Chairman's proposal.

92. Mr. SABEL (Israel), recalling the reservation he had expressed concerning paragraph 2, wondered whether the coordinator of the consultations on that article could not try again to achieve a consensus on the expression "basic human needs".

93. Mr. SVIRIDOV (Russian Federation), referring to the statement by the International Law Commission contained in footnote 16 and to the rest of the Commission's commentary, including the comments contained in the report of the Drafting Committee, said that it would be preferable for them to be reflected in the Working Group's report to the General Assembly.

94. Mr. HABIYAREMYE (Rwanda) recalled that his delegation reserved his position concerning the use of the word "custom" in paragraph 1 of the article, considering that it was likely to obstruct the implementation of the convention.

95. The CHAIRMAN said that further consultations would be held on the way the statement reflecting footnote 16 was to be presented; it could, for example, appear in the report of the Working Group to the General Assembly. Taking into account the proposal made by the representative of Israel to hold further consultations on paragraph 2 of the article, he suggested that any decision on that article should be postponed until the next meeting and that the coordinator of consultations should be asked to contact those delegations that had expressed reservations and to try to achieve a consensus before the next meeting.

96. It was so decided.

The meeting rose at 6.15 p.m.